

REMARKS

Currently, claims 20, 24, 28, 29, 33-38 and 44-52 remain pending in the present application, including independent claims 20, 44 and 49. In view of the above amendments, reconsideration and allowance of the present application are respectfully requested.

In the Office Action, independent 20 was rejected under 35 U.S.C. § 101 and under 35 U.S.C. § 112. In response, claim 20 has now been amended to require that the ozonated aqueous solution is contacted with a microorganism which converts the oxidized medium into a metabolic product comprising a hydrocarbon gas. Applicant believes that all claims for consideration meet the utility requirement and none are anticipated by any of the prior art.

The Amendment to claim 20, however, was not made in acquiescence of the rejection under § 112, but rather, only in an attempt to facilitate prosecution. While the previous claim did state and define activity, the changes made now provide a more specific claim, which clearly possesses specific and substantial utility. This should serve to eliminate any rejections of independent claim 20 and subsequent dependent claims 24, 28, 29 and 33-38 under 35 U.S.C. § 101 and/or 35 U.S.C. § 112, first paragraph.

Claims 49-51 were also rejected for lack of utility under 35 U.S.C. § 101 and 35 U.S.C. § 112, first paragraph. Again, in order to facilitate prosecution, claim 49 has been amended to include a specific use of the oxidized medium collected, as disclosed throughout the specification.

While not rejected under 35 U.S.C. § 101, claims 44-48 were rejected under 35 U.S.C. § 112, first paragraph. There appears to be no evidence presented in the Office Action as to why these claims have been rejected. The explanation following the rejection is directed to general language and specifically to the terms: "organism", "enzyme", "bacteria" and "useful product". However, none of these generic terms are found in claims 44-48. On the contrary, these claims are specifically directed to the production of methane which is described and enabled in the specification in sufficient detail.

Claims 20 and 49 were also rejected under 35 U.S.C. § 102 as being anticipated by Lowther. Lowther is directed to treating waste water by pretreating with ozone before some form of a secondary treatment, of which several are mentioned. With regards to

claim 20, the current amendments should eliminate any rejections on the basis of anticipation by Lowther, as Lowther makes no mention of collecting a product, and certainly not the collection of a hydrocarbon gas. Claim 49 similarly cannot be viewed as being anticipated by Lowther in that claim 49 details a process in which an oxidized medium is captured and dried, as well as specifying a particular use as now amended. This is in direct contrast to the Lowther patent which teaches away from such a final step in the process. As previously stated, Lowther's process is for treating large amounts of waste water, with no intent of collecting or producing a useful product, or any product at all for that matter. Lowther also makes no mention of drying any of the materials in the process, especially not any oxidized medium. For the above reasons, it is clear that the rejected claims define over the Lowther reference.

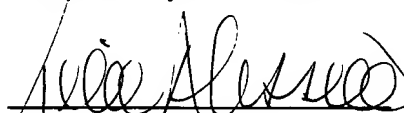
With respect to Lowther, enclosed with this Amendment is a copy of the International Preliminary Examination Report for a PCT Application based upon the above captioned application. As stated in the Examination Report, all of the claims met the requirements with respect to novelty, inventive step, and industrial applicability. Further, the Report states that the prior art does not teach or fairly suggest a method for producing and collecting a useful product as defined in the present application.

It is believed that the present application is in complete condition for allowance. Should Examiner Lilling have any questions with respect to this case, he is invited and encouraged to telephone the undersigned at his convenience.

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Date

Respectfully submitted,



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